

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RONALD LEE ALLEN,

Plaintiff,

v.

NAPHCARE, *et al.*,

Defendants.

Case No. 3:21-cv-00513-MMD-CSD

ORDER

Pro se Plaintiff Ronald Lee Allen brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at the Washoe County Detention Facility. (ECF No. 10.) On March 31, 2022, the Court ordered Allen to file an amended complaint by May 2, 2022. (ECF No. 9 at 7.) The Court warned Allen that the action could be dismissed if he failed to file an amended complaint by that deadline. (*Id.*) That deadline has expired, and Allen has not filed an amended complaint, move for an extension, or otherwise respond.¹

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s interest in

¹Because Allen has not updated his address with the Court, his mail is being returned as undeliverable. (ECF Nos. 11, 12.)

1 expeditious resolution of litigation; (2) the Court's need to manage its docket; (3) the risk
2 of prejudice to the defendants; (4) the public policy favoring disposition of cases on their
3 merits; and (5) the availability of less drastic alternatives. *See In re Phenylpropanolamine*
4 *Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone v. U.S. Postal*
5 *Serv.*, 833 F.2d 128, 130 (9th Cir. 1987)).

6 The first two factors, the public's interest in expeditiously resolving this litigation
7 and the Court's interest in managing its docket, weigh in favor of dismissal of Allen's
8 claims. The third factor, risk of prejudice to defendants, also weighs in favor of dismissal
9 because a presumption of injury arises from the occurrence of unreasonable delay in filing
10 a pleading ordered by the court or prosecuting an action. *See Anderson v. Air West*, 542
11 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring disposition of
12 cases on their merits—is greatly outweighed by the factors favoring dismissal.

13 The fifth factor requires the Court to consider whether less drastic alternatives can
14 be used to correct the party's failure that brought about the Court's need to consider
15 dismissal. *See Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
16 that considering less drastic alternatives *before* the party has disobeyed a court order
17 does not satisfy this factor); *accord Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
18 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that
19 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court's
20 order as satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled
21 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).
22 Courts “need not exhaust every sanction short of dismissal before finally dismissing a
23 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779
24 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until and
25 unless Allen files an amended complaint, the only alternative is to enter a second order
26 setting another deadline. But the reality of repeating an ignored order is that it often only
27 delays the inevitable and squanders the Court's finite resources. The circumstances here
28 do not indicate that this case will be an exception: there is no hint that Allen needs

1 additional time or evidence that he did not receive the Court's screening order. Setting
2 another deadline is not a meaningful alternative given these circumstances. So the fifth
3 factor favors dismissal. In sum, the Court finds that the dismissal factors weigh in favor of
4 dismissal.

5 It is therefore ordered that this action is dismissed without prejudice based on
6 Allen's failure to file an amended complaint in compliance with this Court's March 31,
7 2022, order.

8 It is further ordered that the applications to proceed *in forma pauperis* (ECF Nos.
9 6, 8) are denied as moot.

10 The Clerk of Court is directed to enter judgment accordingly and close this case.
11 No other documents may be filed in this now-closed case. If Allen wishes to pursue his
12 claims, he must file a complaint in a new case.

13 DATED THIS 6th Day of May 2022.

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17 MIRANDA M. DU
18 CHIEF UNITED STATES DISTRICT JUDGE
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